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**CONFIDENTIAL SETTLEMENT COMMUNICATION**  
**PROTECTED BY FEDERAL RULE OF EVIDENCE 408 AND FOIA EXEMPTION 5**

April 14, 2022

**Via Email & Certified U.S. Mail**

Eric J. Wilson  
Deputy Director  
Enforcement and Homeland Security  
Superfund and Emergency Management Division  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, NY 10007

Dear Mr. Wilson:

CSX Transportation, Inc. (“CSXT”) provides this initial response on behalf of Pharmacia LLC to the Notice Letter issued by the United States Environmental Protection Agency (“EPA”) on March 2, 2022, regarding the Lower Passaic River Study Area (the “Notice Letter”). CSX Intermodal assumed an indemnity entered into by Motor Carrier Services when it acquired a 26-acre property in South Kearny, NJ between river mile 2.4 and 2.5 from Monsanto in 1995 (the “Kearny Facility”). Following the Third Circuit’s decision in *Pharmacia Corporation v. Motor Carrier Services Corp.*, 309 F. App’x 666 (3d Cir. 2009), CSXT assumed the defense of this matter for Pharmacia, and stands in the shoes of Pharmacia here for its liability associated with the Kearny Facility pursuant to this contractual obligation. To avoid confusion, this letter will refer to “Pharmacia” as the party potentially responsible for releases at the Kearny Facility.

\* \* \* \*

Exemption (b)(7)(A)

Exemption (b)(7)(A)

**I. EXECUTIVE SUMMARY**

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The Notice Letter alleges Pharmacia is “liable under Section 107(a) of CERCLA for releases or threatened releases of hazardous substances into the LPRSA.” Exemption (b)(7)(A)

Exemption (b)(7)(A)

The Allocator’s consultant team reviewed a massive amount of site-specific evidence that was disclosed during the allocation process, and documented their findings in the FDR.

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Exemption (b)(7)(A)

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We request a meeting with EPA to answer your questions and discuss this matter further.

Sincerely,



Daniel E. Schmitt  
Senior Counsel, CSXT

CC: Paul Simon, Acting Regional Counsel, EPA Region 2  
Sarah Flanagan, Branch Chief, New Jersey Superfund Branch (NJSUP), EPA  
Region 2 Office of Regional Counsel  
Juan Fajardo, Assistant Regional Counsel, NJSUP  
Kathryn DeLuca, Assistant Regional Counsel, NJSUP  
Frances Zizila, Assistant Regional Counsel, NJSUP  
Eric Wilson, Deputy Director for Enforcement and Homeland Security, Superfund and  
Emergency Management Division (SEMD), EPA Region 2  
Michael Sivak, Branch Chief, SEMD – Passaic/Hackensack/Newark Bay Remediation  
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Alice Yeh, Remedial Project Manager, SEMD – PHNBRB  
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